

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 483

**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON,
AMENDING SECTION 6.05.300 OF THE BURIEN MUNICIPAL
CODE RELATING TO ANIMAL CONTROL ENFORCEMENT;
ADDING NEW PROVISIONS RELATING TO PUBLIC NUISANCES;
AUTHORIZING IMPOUNDMENT OF ANIMALS CONSTITUTING A
PUBLIC NUISANCE; PROVIDING FOR SEVERABILITY THEREOF
AND AN EFFECTIVE DATE**

WHEREAS, the City of Burien has entered into an Interlocal agreement with King County to provide animal control services, and

WHEREAS, in accordance with the Interlocal agreement with King County the City has adopted pertinent portions of the King County Animal Control Code found at Chapter 11.04 KCC, and

WHEREAS, section 11.04.290B.2 of the King County Animal Control Code adopted by the City provides that any dog or other animal which bites, attacks, or attempts to bite one or more persons two or more times within a two-year period is declared to be a public nuisance and shall not be kept within the corporate limits of the City of Burien, and

WHEREAS, the foregoing provision would allow a dog or animal to remain in the corporate limits of the City of Burien in circumstances in which such dog or animal, unprovoked, causes severe injury to a person or death to a domestic animal; and

WHEREAS, it has been estimated that nearly 2% of the U.S. population is bitten by a dog each year translating to more than 4.7 million people per year, most of whom are children, and

WHEREAS data from the National Electronic Injury Surveillance System-All Injury Program that was collected for the year 2001 indicates that an estimated 368,245 persons were treated in U.S. hospital emergency departments for nonfatal dog bite--related injuries, and that the injury rates were highest among children aged 5-9 years, and

WHEREAS the City has within its police powers the authority to regulate domestic animals including authority to confiscate and impound domestic animals and to destroy such animals that, unprovoked, cause harm to persons or property, and

WHEREAS, the City Council finds that a dog or animal causing such harm constitutes a public nuisance and a danger to persons and property and should be removed from the corporate

limits of the City, and

WHEREAS the City Council finds that in order to better protect the residents of the City of Burien and their property and pets from such harm, it is necessary to update the current City Code and establish additional regulations, enforcement and impoundment authority, and penalties, and

WHEREAS such amendments to the Burien Municipal Code are for the general welfare of the public as a whole and it is not the purpose or intent of the City Council to create on the part of the City of Burien or its officers, officials, employees or agents any special duties or relationships with specific individuals;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Amendment of Section Chapter 6.05.300. Section 6.05.300 (Enforcement and procedures – Adopted by reference) of the Burien Municipal Code is hereby amended with the addition of new subsection 11.04.290.B.3 to be added at the end of section 11.04.290 of the King County Code as adopted by reference pursuant to Section 6.05.330 BMC, with such new subsection 3 to read as follows:

3. Any dog or other animal which inflicts severe injury on a human being without provocation on public or private property or kills a domestic animal without provocation while the dog or other animal is off the owner's property is declared to be a public nuisance and shall not be kept within the corporate limits of the City of Burien forty-eight hours following the owner's receipt of written notice from the director or the City Manager or his or her designee. Such animal or animals found in violation of this section are hereby declared to be a public nuisance and may be impounded and disposed of as an unredeemed animal, and the owner or keeper of such animal(s) has no right to redeem such dog or animal. For purposes of this subsection, the terms "Unprovoked", "Severe Injury" and "Injury" shall have the following meanings:

"Unprovoked" means that an animal is not "provoked." An animal is "provoked" if the animal was being tormented physically abused or hurt at the time of the incident. An animal also is "provoked" if a reasonable person would conclude that the animal was defending itself, its owner or an immediate family member of its owner, or another person within its immediate vicinity from an actual assault or was defending real property belonging to its owner or an immediate family member of its owner from a crime being committed on the owner's property at that time. An animal is not "provoked" if the victim is alleged to have provoked the animal and the victim is less than six (6) years old.

"Severe injury" means any injury that results in broken bones, disfiguring lacerations requiring multiple sutures (or according to a licensed physician would have required sutures) or

cosmetic surgery, or causes a permanent impairment of the physical condition that limits one or more of the major life activities of such individual. It also means transmittal of an infectious or contagious disease by an animal.

"Injury" means any physical injury that causes physical pain or the impairment of the physical condition including, but not limited to, cuts, scraps, bruises or punctures.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

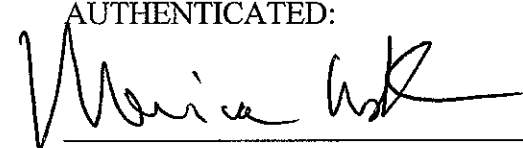
Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 17TH DAY OF DECEMBER, 2007, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 17TH DAY OF DECEMBER, 2007.

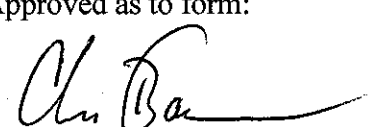
CITY OF BURIEN


Joan McGilton, Mayor

AUTHENTICATED:


Monica Lusk, City Clerk

Approved as to form:


Chris Bacha,
Kenyon Disend, PLLC,
Interim City Attorney

Filed with the City Clerk: December 4, 2007
Passed by the City Council: December 17, 2007
Ordinance No. 483
Date of Publication: December 20, 2007